

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

Date of order : 9/08/2018

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

No. O.A. 329 of 2018

Shri Ajay Kumar Gond,
Son of Late Kunj Bihari Gond,
Aged about 50 years,
Residing at 143, P.K. Guha Road,
Dum Dum Cantonment,
Kolkata – 700 028 and
At present suspended from the post of
Head Havaldar in the
Office of the Commissioner of Customs
(Administration & Airport),
15/1, Strand Road,
Kolkata – 700 001.

O.A. 330 of 2018

Shri Sanjay Kumar Gond,
Son of Late Kunj Bihari Gond,
Aged about 48 years,
Residing at 143, P.K. Guha Road,
Dum Dum Cantonment,
Kolkata – 700 029 and at present
Suspended from the post of Havaldar in the
Office of the Commissioner of
Customs (Administration & Airport),
15/1, Strand Road,
Kolkata – 700 001.

O.A. 331 of 2018

Shri Amit Ghosh,
Son of Late Ajit Kumar Ghosh,
Aged about 50 years,
Residing at Khardah Bosepara,
Madhurmath,
Kolkata – 700 117, and at present Suspended
from the post of
Head Havaldar in the
Office of the Commissioner of
Customs (Administration & Airport),
15/1, Strand Road,
Kolkata – 700 001.

.. Applicants

- V E R S U S -

lalal

1. **Union of India**
Service through the Secretary,
Ministry of Finance,
Department of Revenue,
Government of India,
North Block,
New Delhi – 110 001.

2. **The Chairman,**
Central Board of Excise & Customs,
Government of India,
Ministry of Finance,
North Block,
New Delhi – 110 001.

3. **The Principal Commissioner of**
Customs (Administration & Airport),
Customs House, 15/1, Strand Road,
Kolkata – 700 001.

4. **The Commissioner of Customs**
(Administration & Airport),
Customs House, 15/1, Strand Road,
Kolkata – 700 001.

5. **The Additional Commissioner of Customs**
(Administration & Airport),
Customs House, 15/1, Strand Road,
Kolkata – 700 001.

6. **The Joint Commissioner of Customs**
(Administration & Airport),
Customs House, 15/1, Strand Road,
Kolkata – 700 001.

7. **The Deputy Commissioner of Customs**
(Preventive),
Customs House, 15/1, Strand Road,
Kolkata – 700 001.

8. **The Commissioner of Customs**
(Preventive),
Customs House, 15/1, Strand Road,
West Bengal, Kolkata – 700 001.

9. **The Directorate of Revenue Intelligence,**
Kolkata Zonal Unit, 8, Ho Chi Minh Saranai,
Kolkata – 700 071.

hph

.. Respondents

For the Applicants : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondents : Mr. A. Roy, Counsel
Ms. S. Gupta, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

These three matters are taken up together given that each of the Original Applications have been filed seeking quashing of or setting aside of suspension order dated 9.3.2017 of the respondent authorities.

The O.A. bearing No. 350/00329/2018 is taken up for issue of detailed orders and these orders will apply uniformly to O.A. No. 350/00330/2018 & O.A. No. 350/00331/2018.

2. Ld. Counsel for both sides are present, perused documents and pleadings on record.
3. In O.A. No. 350/00329/2018, the applicant is aggrieved by the order of suspension dated 9.3.2017 and has sought for the following relief:-

"(a) To quash and/or set aside the impugned order of suspension dated 9th March, 2017 being F. No. S21(Misc.)-07/2017 Vig. against the applicant being Annexure A-1 of this original application and to quash and/or set the impugned review suspension order dated 31.5.2017 and 28.8.2017 and 29.11.2017 by which the order of suspension has been extended beyond 90 days by violation of the decision of the Hon'ble Supreme Court in the case of Ajay Kumar Chowdhury – vs. - State of West Bengal being Annexure A-3 and A-6 of this original application.

(b) To quash and/or set aside the impugned Memorandum of Charge-Sheet dated 18.1.2018 along with article of charges issued by the Joint Commission of Customs (Administration & Airport) Customs House, 15/1, Strand Road, Kolkata – 700 001 against the applicant being Annexure A-7 of this original application.

(c) To quash and/or set aside the impugned order dated 13.2.2018 by which the order of suspension has been extended for further period of 90 days without considering the appeal preferred by the applicant by violation of the judgment passed by the Hon'ble Supreme Court in the case of Ajay Kumar Chowdhury – vs. – State of West Bengal reported in JT 2015 (2) SC, Page 487 being Annexure A-10 of this original application wherein the Hon'ble Apex Court has held that currency of suspension order cannot be extended beyond three months unless the memorandum of charge-sheet is issued and even if the charge-sheet is issued, after that the authority has to explain what the further extension order of suspension is required but

4/2/18

nothing has been explained in the impugned order of suspension along with review order of suspension order of the present applicant.

(d) To quash and/or set aside the impugned office order dated 19.2.2018 by which without revocation of the suspension order and without supplying the relied upon documents of the charge-sheet to the applicant, on the basis of self-same allegations the respondent authority are going to proceed with the charge-sheet by appointing an Enquiry Officer which is also bad in law and illegal because nothing has been supplied with to the present applicant which has relied upon and if they proceeded with the departmental proceeding, the applicant will be seriously prejudiced by not defending the same in accordance with law."

4. Ld. Counsel for the applicants submits that, although the applicant has preferred a representation for revocation/cancellation of suspension order to the competent respondent authority, the same is still pending consideration at the level of the respondents and that the purpose of the applicant would be served if a direction is issued to the concerned respondent authority to dispose of the said representation within a specific time frame.

5. Ld. Counsel for the respondents, who is present, submitted that the matter relating to revocation of suspension of the applicant is under active consideration of the Commissioner of Customs (Administration & Airport), who is respondent No. 4 in this O.A.

6. Accordingly, without entering into the merits of the matter, we hereby direct the competent respondent authority to examine and dispose of the pending representation of the applicant dated 8.2.2018 (Annexure 'A-9' to the O.A.) with a reasoned and speaking order and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. While disposing of the same, the respondent authorities should refer to the decision of the Hon'ble Apex Court in the matter of *Ajay Kumar Chaudhury vs. Union of India* as reported in (2015) 7 SCC 291. The decision arrived at should be communicated forthwith to the applicant.

7. With this, the O.A. is disposed of. There will be no order on costs.

(Nandita Chatterjee)
Administrative Member
SP

(Bidisha Banerjee)
Judicial Member